

2009 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB75)

Received: **06/10/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Austin**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - miscellaneous**
Insurance - health

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Austin -

Topic:

Independent review modifications

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 06/10/2009	csicilia 06/10/2009		_____ _____			
/1			jfrantze 06/10/2009	_____ _____	sbasford 06/10/2009		
/2	pkahler 06/10/2009	csicilia 06/10/2009	rschluet 06/10/2009	_____ _____	sbasford 06/10/2009		

FE Sent For:

<END>

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09

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/?	pkahler	1 js 6/10 09		6/10			

FE Sent For:

<END>

Kahler, Pam

From: Austin, Sam
Sent: Tuesday, June 09, 2009 5:42 PM
To: Kahler, Pam
Cc: Morgan, Charlie
Subject: FW: Budget amendment request

Attachments: 20090609170242755.pdf



2009060917024275

5.pdf (37 KB)

Hi Pam,

Here's an electronic copy of that health insurance amendment. Let me know if you or other drafting attorneys see any issues that could be problematic with the way the proposal is worded.

Thanks, and have a good night,

Sam

Sam Austin, Fiscal Analyst
Wisconsin Legislative Fiscal Bureau
1 E. Main Street, Suite 301
Madison, WI 53703

Telephone: (608)266-3847
Fax: (608)267-6873
E-Mail: Sam.Austin@legis.wisconsin.gov

-----Original Message-----

From: Houdek, Nathan
Sent: Tuesday, June 09, 2009 5:02 PM
To: Austin, Sam
Subject: Budget amendment request

-----Original Message-----

From: Network Scanning
Sent: Tuesday, June 09, 2009 4:03 PM
To: Houdek, Nathan
Subject:

This E-mail was sent from "RNPBB19E1" (MP 5500/LD255).

Scan Date: 06.09.2009 17:02:42 (-0400)
Queries to: networkscanning@legis.wisconsin.gov

Amendment to AB 108

Delete AA 3 to AB 108.

On page 7, after line 16, insert:

"Section 17 M. 632.835 (7) (title) of the statutes is amended to read:

632.835 (7) (title) IMMUNITY; PRESUMPTION"

On page 7, after line 22, insert:

"Section 18 M. 632.835 (7) (c) and (d) are created to read:

provided (c) An insurer is not liable for punitive damages that are otherwise ~~provide~~ by law for actions the insurer takes in compliance with an independent review organization decision issued under this section that relates to a pre-existing condition denial or rescission.

(d) In any civil court case brought by the insured against an insurer an independent review organization decision issued under this section relating to a pre-existing condition denial or rescission is presumed to be correct and the insured has the burden of proof to establish otherwise."

See 632.835(3)(f)2.

Amendment to AB 108

Delete AA 3 to AB 108.

On page 7, after line 16, insert:

"Section 17 M. 632.835 (7) (title) of the statutes is amended to read:

632.835 (7) (title) IMMUNITY; PRESUMPTION"

On page 7, after line 22, insert:

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(d) In any civil ^{action} ~~court case~~ brought by the insured against an insurer an independent review organization decision issued under this section relating to a pre-existing condition denial or rescission is presumed to be correct and the insured has the burden of proof to establish otherwise.

rebutting
the presumption



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBb0865/2

PJK:.....

js

LFB:.....Austin - Independent review modifications

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 75

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1611, line 25: after "insured." insert "If an insured brings a civil action
- 3 against an insurer after an independent review organization has issued a decision
- 4 relating to a preexisting condition exclusion denial determination or a rescission, the
- 5 decision of the independent review organization is presumed to be correct and the
- 6 insured has the burden of rebutting the presumption." ✓
- 7 **2.** Page 1612, line 11: after that line insert:
- 8 **"SECTION 3192m.** 632.835 (7) (c) of the statutes is created to read: X
- 9 632.835 (7) (c) An insurer is not liable for punitive damages for actions taken
- 10 in compliance with any decision rendered by a certified independent review

1 organization under this section relating to a preexisting condition exclusion denial
2 determination or a rescission.”.

3 (END)

D. J. Se

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0865/1dn

PJK:/.....

g's

Sam:

I had Bob Nelson review the language, and he made a couple of minor changes. As you can see, I placed the presumption language in s. 632.835 (3) (f) 2., because I thought it directly related to that language (providing that certain decisions are not binding on an insured).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0865/1dn

PJK:cjs:jf

June 10, 2009

Sam:

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBb0865/1 2

PJK:cjs:jf

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LFB:.....Austin - Independent review modifications

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

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3 (END)



LFB:.....Austin - Independent review modifications

**FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 75**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1611, line 25: after "insured." insert "If an insured brings a civil action
3 against an insurer relating to a preexisting condition exclusion denial determination
4 or a rescission with respect to which an independent review organization has issued
5 a decision, the decision of the independent review organization is presumed to be
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